



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[A-489-805]

Certain Pasta from Turkey: Notice of Preliminary Results of the 2010-2011 Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain pasta (pasta) from Turkey for the period of review (POR) July 1, 2010, through June 30, 2011. The Department initiated the review covering TAT Makarnacilik Sanayi ve Ticaret A.S. (TAT) and Marsan Gida Sanayi ve Ticaret A.S (Marsan) and its claimed affiliates Birlik Pazarlama Sanayi ve Ticaret A.S. (Birlik), Bellini Gida Sanayi A.S. (Bellini), and Marsa Yag Sanayi ve Ticaret A.S. (Marsa Yag). We preliminarily determine that during the POR, TAT did not sell subject merchandise at less than normal value (NV). In addition, we preliminarily determine that Birlik, Bellini, and Marsan did not sell subject merchandise at less than NV.

If these preliminary results are adopted in the final results of this administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. See “Preliminary Results of Review” section of this notice.

EFFECTIVE DATE: (Insert date of publication in the Federal Register.)

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Victoria Cho, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3692 or (202) 482-5075, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 2011, the Department issued a notice of opportunity to request an administrative review of this order for the POR of July 1, 2010, through June 30, 2011.¹ On July 29, 2011, we received a request to conduct a review with respect to Marsan and its claimed affiliates: Birlik, Bellini, and Marsa Yag. We also received a request from TAT for the Department to conduct an administrative review of TAT.

On August 3, 2011, the Department provided Marsan with an opportunity to comply with the recently revised certification requirements with respect to its request for review.² On August 10, 2011, Marsan resubmitted its request for administrative review with the requisite certification language.

On August 26, 2011, the Department published the notice of initiation of this antidumping duty administrative review covering the period July 1, 2010, through June 30, 2011.³

On September 14, 2011, the Department issued initial questionnaires covering sections A, B, C, and D to Marsan and sections A, B, and C to TAT with a due date of October 21, 2011.

¹ See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review, 76 FR 38609 (July 1, 2011).

² See 19 CFR 351.303(g)(1) and (g)(2).

³ See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 76 FR 53404 (August 26, 2011).

Because the Department disregarded below-cost sales in the most recently completed segment of the proceeding in which sales were reviewed for Marsan,⁴ we had reasonable grounds to believe or suspect that home market sales of the foreign like product by Marsan were made at prices below the cost of production (COP) during the POR, in accordance with section 773(b)(2)(A)(ii) of the Tariff Act of 1930, as amended (the Act), and therefore, included section D in the questionnaire to Marsan. After granting extensions to Marsan, the sections A, B, and C questionnaire responses were submitted on November 4, 2011, and the section D questionnaire response was submitted on November 18, 2011. On November 22, 2011, petitioners submitted deficiency comments on sections A through D of Marsan's initial questionnaire response.⁵ The Department issued supplemental questionnaires to Marsan between January 13, 2012, and May 3, 2012. Responses to the Department's supplemental questionnaires were received from Marsan between January 23, 2012, and July 2, 2012.

After granting extensions to TAT, TAT's sections A, B, and C questionnaire responses were submitted on November 9, 2011. On November 28, 2011, February 27, 2012, and May 1, 2012, petitioners submitted deficiency comments for TAT. On February 23, 2012, petitioners submitted its comments requesting that the Department rescind this administrative review for TAT because TAT lacked a reviewable entry. Petitioners urged that the Department request CBP to investigate any entries of subject merchandise, negligence in importations, and/or customs fraud made by TAT. The Department issued several supplemental questionnaires to TAT and we received responses to the Department's supplemental questionnaires on December

⁴ See Notice of Final Results of Antidumping Duty Administrative Review: Certain Pasta from Turkey, 64 FR 69493 (December 13, 1999) (97/98 Review Final). In June 2009, the Department found that Marsan was the successor-in-interest to Gidasa Sabanci Gida Sanayi ve Ticaret AS (Gidasa). See Certain Pasta from Turkey: Notice of Final Results of Antidumping Duty Changed Circumstances Review, 74 FR 26373 (June 2, 2009). In July 2003, the Department found that Gidasa was the successor-in-interest to Maktas Makarnacilik ve Ticaret AS (Maktas). See Notice of Final Results of Changed Circumstances Antidumping and Countervailing Duty Administrative Reviews: Certain Pasta From Turkey, 68 FR 41554 (July 14, 2003). Maktas was the reviewed company in the 97/98 Review Final.

⁵ Petitioners are New World Pasta Company, Dakota Growers Pasta Company, and American Italian Pasta Company.

15, 2011, January 10, 2012, March 29, 2012, and June 15, 2012.

On February 24, 2012, the Department published a notice extending the time period for issuing the preliminary results of the administrative review from April 1, 2012, to July 30, 2012.⁶

Period of Review

The POR covered by this review is July 1, 2010, through June 30, 2011.

Targeted Dumping Allegations

Petitioners contend that it conducted its own targeted dumping analysis of Marsan's U.S. sales using the Department's targeted dumping methodology as applied in Steel Nails and modified in Wood Flooring.⁷ Based on their analysis, petitioners argue the Department should conduct a targeted dumping analysis and employ average-to-transaction comparisons without offsets should the Department find that the record supports its allegation of targeted dumping. Marsan did not comment on the targeted dumping allegations submitted by the petitioners.

For purposes of these preliminary results, the Department did not conduct a targeted dumping analysis. In calculating the preliminary weighted-average dumping margin, the Department applied the calculation methodology adopted in the Final Modification for Reviews.⁸ In particular, the Department compared monthly, weighted-average export prices with monthly, weighted-average normal values, and granted offsets for negative comparison results in the calculation of the weighted-average dumping margins.⁹ Application of this methodology in

⁶ See Certain Pasta From Turkey: Extension of Time Limit for the Preliminary Results of the Countervailing Duty Administrative Review, 77 FR 11065 (February 24, 2012).

⁷ See Petitioners' Allegation of Targeted Dumping with respect to Marsan, dated June 15, 2012 (citing Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 33977 (June 16, 2008) (Steel Nails), and accompanying Issues and Decision Memorandum at Comment 8 (Steel Nails); Multilayered Wood Flooring from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 76 FR 64318 (Oct. 18, 2011) (Wood Flooring), and accompanying Issues and Decision Memorandum at Comment 4.

⁸ See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification, 77 FR 8101 (February 14, 2012) (Final Modification for Reviews).

⁹ See id. at 8102.

these preliminary results affords parties an opportunity to meaningfully comment on the Department's implementation of this recently adopted methodology in the context of this administrative review.

Scope of the Order

Imports covered by this review are shipments of certain non-egg dry pasta in packages of five pounds (2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions. Excluded from the scope of this review are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white.

The merchandise subject to review is currently classifiable under item 1902.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Affiliation and Collapsing

As discussed above, in its request for review, Marsan requested a review of itself and three companies (Birlik, Bellini, and Marsa Yag) which it claimed as affiliates. In the instant review, the Department preliminarily finds that Birlik, Bellini and Marsa Yag are affiliated in accordance with sections 771(33)(E) and (F) of the Act based on ownership structure and major shareholder controlling interest in these three subsidiaries.¹⁰ At the outset of the POR, Birlik

¹⁰ See Memorandum to Melissa Skinner, Office Director, Office 3 from the Team, titled "Whether to Treat Marsan and its Claimed Affiliates as a Single Entity for Margin Calculation Purposes," dated July 30, 2012 (Affiliation/Collapsing Memo).

operated the pasta production facility, but Bellini took over operation of the pasta production facility in October 2010.¹¹ Because Birlik and Bellini operated the pasta production facility during different periods and both companies were not producing subject merchandise at the same time, the Department preliminarily determines that it is not appropriate to treat these companies as a single entity pursuant to 19 CFR 351.401(f).¹²

Consistent with our findings in the prior review,¹³ the Department finds that Marsan was not affiliated with Birlik or Bellini, prior to June 2, 2011.¹⁴ However, as discussed in more detail in the Affiliation/Collapsing Memo, the Department preliminarily determines that effective June 2, 2011, Marsan and Bellini became affiliated persons within the meaning of section 771(33)(F) of the Act.¹⁵

Upon finding Bellini to be affiliated with Marsan for the last month of the POR, the Department has also considered whether to treat Bellini and Marsan as a single entity for that month pursuant to 19 CFR 351.401(f). Based upon the level of common ownership and the intertwining of the production and distribution operations of these companies after the acquisition of Marsan, the Department preliminarily finds there to be significant potential for manipulation of price or production of subject merchandise and has thus treated Bellini and Marsan as a single entity for the last month of the POR, referred to hereafter as Marsan/Bellini.¹⁶

Nature of TAT's Sales

Petitioners have raised various concerns about the nature of TAT's sales of subject merchandise to the United States, including whether TAT has reviewable entries and whether its

¹¹ See Marsan's November 4, 2011, questionnaire response at 7.

¹² See Affiliation/Collapsing Memo.

¹³ See Certain Pasta From Turkey: Notice of Final Results of the 14th Antidumping Duty Administrative Review, 76 FR 68339 (November 4, 2011) (14th Review Final Results), and accompanying Issues and Decision Memorandum (I&D Memo) at Comments 1 and 2.

¹⁴ See Affiliation/Collapsing Memo.

¹⁵ See Marsan's November 4, 2011, questionnaire response at 9 and Exhibit 4, and Affiliation/Collapsing Memo.

¹⁶ See Affiliation/Collapsing Memo.

sales prices are consistent with normal commercial practices.¹⁷ Record information indicates that TAT has at least one reviewable entry, allowing the Department to continue with its review of TAT.¹⁸ With respect to petitioners' concerns about the nature of TAT's sales, the Department does not find support for those allegations in record evidence at this time because they are mainly premised upon petitioners' contentions that TAT does not have any reviewable entries subject to antidumping duty liability,¹⁹ which the Department preliminarily finds not to be case as addressed above. Petitioners also question whether TAT's sales to its U.S. customers were conducted at arm's length.²⁰ Record evidence, however, establishes that TAT is not affiliated with its U.S. customers²¹ and petitioners have not identified information on the record demonstrating otherwise. However, we will continue to consider this matter. Should we determine that petitioners' concerns have merit we will further investigate in the context of this administrative review and, if necessary, conduct an analysis of whether TAT's sales are bona fide.

Product Comparisons

For purposes of calculating NV, section 771(16) of the Act defines "foreign like product" as merchandise which is either (1) identical or (2) similar to the merchandise sold in the United States. When no identical products are sold in the home market, the products which are most similar to the product sold in the United States are identified. For the non-identical or most similar products which are identified based on the Department's product matching criteria, an

¹⁷ See, e.g., Petitioners' February 23, 2012, submission.

¹⁸ See, e.g., TAT's March 29, 2012, submission at Attachment 1.

¹⁹ See Petitioners' February 23, 2012, submission at 3-5.

²⁰ See *id.*

²¹ See TAT's November 9, 2011, section A questionnaire response at 9-13.

adjustment is made to the NV for differences in cost attributable to differences in the actual physical differences between the products sold in the United States and the home market.²²

In accordance with section 771(16) of the Act, we first attempted to match contemporaneous sales of products sold in the United States and comparison markets that were identical with respect to the following characteristics: (1) pasta shape; (2) wheat species; (3) milling form; (4) protein content; (5) additives; and (6) enrichment. Where there were no sales of identical merchandise in the comparison market to compare with U.S. sales, we compared U.S. sales with the most similar product based on the characteristics listed above, in descending order of priority.

Fair Value Comparisons

To determine whether sales of certain pasta from Turkey were made in the United States at less than NV, we compared the export price (EP) to the NV, as described in the “Export Price” and “Normal Value” sections of this notice. In particular, the Department compared monthly, weighted-average export prices with monthly, weighted-average normal values, and granted offsets for negative comparison results in the calculation of the weighted-average dumping margins.²³

Based on our affiliation and collapsing preliminary determinations, as discussed above, we separately calculated weighted-average dumping margins for: (1) Birlik for the period July 2010 through September 2010; (2) Bellini for the period October 2010 through May 2011; and (3) Marsan/Bellini (the collapsed entity of Bellini and Marsan) for the month of June 2011. For each of the respondents, we compared the respective monthly weighted-average NVs to monthly, weighted-average export prices.²⁴

²² See 19 CFR 351.411 and section 773(a)(6)(C)(ii) of the Act.

²³ See Final Modification for Reviews.

²⁴ See Affiliation/Collapsing Memo; see also Preliminary Results in the 10/11 Administrative Review on Certain

Export Price

For the price to the United States, we used EP, as defined in section 772(a) of the Act. Section 772(a) defines EP as the price at which the subject merchandise is first sold before the date of importation by the producer or exporter of subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States. We calculated EP for each of the respondents' U.S. sales because they were made to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States and constructed export price (CEP) was not otherwise warranted based on the facts on the record.

In accordance with section 772(c)(2)(A) of the Act, we made deductions, where appropriate, for movement expenses including foreign inland freight from plant/warehouse to customer. In addition, when appropriate, we increased EP by an amount equal to the countervailing duty (CVD) rate attributed to export subsidies in the most recently completed CVD administrative review, in accordance with section 772(c)(1)(C) of the Act.²⁵

Pasta from Turkey: Calculation Memorandum for Birlik/Bellini (Preliminary Calculation Memo Birlik/Bellini). As noted above, for these these preliminary results, the Department has applied the weighted-average dumping margin calculation method adopted in Final Modification for Reviews. Note that the Department did not calculate a rate for Marsan Yag because they are collapsed into the group Bellini and Marsan and are not a producer.

²⁵ Final Affirmative Countervailing Duty Determination: Certain Pasta ("Pasta") from Turkey, 61 FR 30366 (June 14, 1996).

Normal Value

A. Selection of Comparison Market

Section 773(a)(1) of the Act directs that NV be based on the price of the foreign like product sold in the home market, provided that the merchandise is sold in sufficient quantities (or value, if quantity is inappropriate) and that there is no particular market situation that prevents a proper comparison with the EP or CEP. The statute contemplates that quantities (or value) normally be considered insufficient if they are less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States. To determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we used the combined home market sales volume for Marsan, Birlik and Bellini, and TAT's volume of home market sales of the foreign like product to the volume of their U.S. sales of the subject merchandise.

Pursuant to section 773(a)(1)(B) of the Act, because the respondents had an aggregate volume of home market sales of the foreign like product that was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable.²⁶

B. Arm's-Length Sales

We included in our analysis the respondents' home market sales to affiliated customers only where we determined that such sales were made at arm's-length prices, i.e., at prices comparable to prices at which identical merchandise was sold to their unaffiliated customers. To test whether the sales to affiliates were made at arm's-length prices, we compared the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts, and packing. Where the prices to that affiliated party were, on average,

²⁶ See TAT's November 9, 2011, section A response at 3 and also see Marsan's November 4, 2011, section A response at 4 and Exhibit A-1.

within a range of 98 to 102 percent of the prices of comparable merchandise sold to unaffiliated parties, we determined that the sales made to the affiliated party were at arm's-length.²⁷

Conversely, where we found that the sales to an affiliated party did not pass the arm's-length test, then all sales to that affiliated party have been excluded from the dumping analysis.²⁸

C. Cost of Production Analysis

As discussed above, because the Department disregarded below-cost sales in the most recently completed segment of the proceeding in which sales were reviewed for Marsan,²⁹ we had reasonable grounds to believe or suspect that home market sales of the foreign like product by Marsan were made at prices below the COP during the POR, in accordance with section 773(b)(2)(A)(ii) of the Act. Pursuant to section 773(b)(1) of the Act, the Department conducted a COP investigation of sales in the home market by Marsan. Therefore, we required Marsan to submit a response to section D of the Department's questionnaire. As discussed above and in the Affiliation/Collapsing Memo, the Department has preliminarily determined to collapse Marsan and Bellini and, therefore, we have relied on the cost data from both of these entities.

1. Calculation of COP

We calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling, general and administrative (SG&A) expenses and packing, in accordance with section 773(b)(3) of the Act. Except as noted below, the Department relied on the COP data submitted by Marsan and Bellini – the affiliated party we preliminarily determined to collapse with Marsan.

²⁷ See 19 CFR 351.403(c).

²⁸ See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade, 67 FR 69186, 69187 (November 15, 2002); TAT's November 9, 2011, section B response at B-3; and also see Marsan's November 4, 2011, section B response at 7 and 8.

²⁹ See 97/98 Review Final. Marsan is the successor-in-interest to Gidasa, who was the successor-in-interest to Maktas, the company subject to the 97/98 review cited in this notice.

We have applied our standard methodology of using annual costs based on the reported data. We relied on the COP data submitted by Marsan on May 9, 2012, for Bellini, except for the following adjustments: For Bellini, we adjusted the per-unit material costs for one CONNUM sold but not produced during the POR to account for the cost of bran consumed. We adjusted Bellini's reported total cost of manufacturing (TCOM) to account for an unreconciled difference between the total cost of sales in the audited financial statements and the extended total cost of manufacturing captured in the reported cost file.³⁰

2. Test of Comparison Market Prices

We compared the weighted-average COPs for the collapsed Marsan/Bellini entity to their home market sales prices of the foreign like product, as required under section 773(b) of the Act, to determine whether these sales had been made at prices below the COP within an extended period of time (i.e., normally a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. On a model-specific basis, we compared the COP to the home market prices, less any applicable movement charges, discounts, rebates, and direct and indirect selling expenses.³¹

3. Results of COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of the respondent's home market sales of a given model were at prices less than the COP, we disregarded the below-cost sales because: (1) they were made within an extended period of time in "substantial quantities," in accordance with sections

³⁰ See Memorandum to Neal M. Halper, Director, Office of Accounting through Taija A. Slaughter, Lead Accountant from Robert B. Greger, Senior Accountant, titled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results – Bellini," dated July 30, 2012.

³¹ See Marsan's Preliminary Calculation Memo Birlik/Bellini.

773(b)(2)(B) and (C) of the Act; and (2) based on our comparison of prices to the weighted-average COPs, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

We found that Marsan/Bellini made sales below cost and we disregarded such sales where appropriate.³²

D. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on ex-works, free on board (FOB) or delivered prices to comparison market customers. Pursuant to 19 CFR 351.401(c), we made deductions from the starting price, when appropriate, for discounts and rebates. In accordance with sections 773(a)(6)(A) and (B) of the Act, we added U.S. packing costs and deducted comparison market packing, respectively. We also deducted home market movement expenses pursuant to section 773(a)(6)(B) of the Act. In addition, for comparisons made to EP sales, we made adjustments for differences in circumstances of sale (COS) pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(b). Specifically, we made adjustments to NV for comparison to respondents' EP transactions by deducting direct selling expenses incurred for home market sales (i.e., credit expenses) and adding U.S. direct selling expenses (i.e., credit expenses). See section 773(a)(6)(C)(iii) of the Act, and 19 CFR 351.410(c).³³

When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this

³² See Preliminary Calculation Memo Marsan/Bellini.

³³ See Id.

adjustment on the difference in the variable cost of manufacturing (VCOM) for the foreign like product and subject merchandise, using weighted-average costs.³⁴

E. Level of Trade

In accordance with section 773(a)(1)(B) of the Act, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP and/or CEP sales, to the extent practicable. When there are no sales at the same LOT, we compare U.S. sales to comparison market sales at a different LOT. When NV is based on CV, the NV LOT is that of the sales from which we derive SG&A expenses and profit.

Pursuant to 19 CFR 351.412(c)(2), to determine whether comparison market sales were at a different LOT, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated (or arm's-length affiliated) customers. The Department identifies the LOT based on: the starting price or constructed value (for normal value); the starting price (for EP sales); and the starting price, as adjusted under section 772(d) of the Act (for CEP sales). If the comparison-market sales were at a different LOT and the differences affect price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we will make an LOT adjustment under section 773(a)(7)(A) of the Act.

During the POR, TAT reported that all of its sales were EP sales. TAT produced and sold pasta to affiliated and unaffiliated wholesalers/distributors and retailers in the home market. TAT sold pasta through two channels of distribution in the home market. TAT sold pasta to unaffiliated wholesalers/distributors in the U.S. market and sold pasta through one channel of distribution. TAT claimed that there were no differences in levels of trade between sales in the home market and sales to the United States, and thus TAT did not provide a selling functions

³⁴ See Marsan's November 4, 2011, section B response at 44.

chart in its Section A Response.³⁵ Therefore, we preliminarily determine that no level of trade adjustment is warranted.

Birlik and Bellini produced and sold the subject merchandise to both affiliated and unaffiliated companies in the home and U.S. markets during the POR. Marsan, an unaffiliated company purchased pasta from Birlik and Bellini and sold the purchased pasta to unaffiliated customers in the home market and U.S. market. Birlik, Bellini, and Marsan claimed that there were no differences in levels of trade between sales in the home market and sales to the United States.³⁶ Therefore, we preliminarily determine that no level of trade adjustment is warranted,

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act, based on the official exchange rates published by the Federal Reserve Bank.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following weighted-average percentage margins exist for the period July 1, 2010, through June 30, 2011:

Manufacturer/exporter	Margin (percent)
Birlik	0.00
Bellini	0.00
Bellini/Marsan	0.00
TAT	0.00

Disclosure

In accordance with 19 CFR 351.224(b), we intend to disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice.

Comments and Hearing

³⁵ See TAT's November 9, 2011, section B questionnaire response at 26.

³⁶ See Marsan's November 4, 2011, section B questionnaire response at 29.

Interested parties are invited to comment on the preliminary results. Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than 5 days after the time limit for filing the case briefs in accordance with 19 CFR 351.309(d). As specified by 19 CFR 351.309(c)(2), parties who submit arguments are requested to submit with each argument: (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Written arguments should be submitted via the Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS).³⁷

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, filed electronically using IA ACCESS. An electronically filed document must be received successfully in its entirety by the Department by 5 p.m. Eastern Standard Time within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs and rebuttal briefs.

The Department intends to publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any written comments or hearing, within 120 days from publication of this notice, in accordance with section 751(a)(3)(A) of the Act, unless the time limit is extended.

³⁷ See generally 19 CFR 351.303.

Assessment

The Department will determine, and CBP shall assess, antidumping duties on all appropriate entries, pursuant to section 751(a)(1)(B) of the Act and 19 CFR 351.212(b)(1). The Department calculated importer-specific duty assessment rates on the basis of the ratio of the total antidumping duties calculated for the examined sales to the total entered value of the examined sales for that importer.³⁸ Where the assessment rate is above de minimis, we will instruct CBP to assess duties on all entries of subject merchandise by that importer.³⁹ Where the importer-specific rate is zero or de minimis, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.⁴⁰ The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review.

The Department clarified its “automatic assessment” regulation on May 6, 2003. See Assessment of Antidumping Duties. This clarification will apply to entries of subject merchandise during the period of review produced by companies included in these preliminary results of review for which the reviewed companies did not know their merchandise was destined for the United States.⁴¹ In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003).

Cash Deposit Requirements

³⁸ See 19 CFR 351.212(b)(1).

³⁹ See id.

⁴⁰ See 19 CFR 351.106(c)(2).

⁴¹ As in the 14th Review Final Results, we preliminarily determine that, for the first eleven months of the POR when Marsan was not affiliated with Birlik or Bellini, Marsan was not the first party in the transaction chain to have knowledge that the merchandise was destined for the United States. See Marsan’s November 4, 2011 questionnaire response at 17. Thus, Marsan is not considered the exporter of subject merchandise during the first eleven months of the POR for purposes of this review.

The following cash deposit rates will be effective upon publication of the final results of this administrative review for all shipments of certain pasta from Turkey entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Marsan/Bellini and TAT will be the rates established in the final results of this review (except, if the rates are zero or de minimis, then zero cash deposit will be required); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review or the LTFV investigation conducted by the Department, the cash deposit rate will be 51.49 percent, the All-Others rate established in the LTFV.⁴² Because we preliminarily determine that as of June 2, 2011, neither Birlik nor Bellini continue to exist as independent pasta producers, we are not establishing a cash deposit rate for these entities. These cash deposit requirements shall remain in effect until further notice.

Notification To Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping and/or increase the antidumping duty by the amount of the

⁴² See Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta From Turkey, 61 FR 38545 (July 24, 1996).

countervailing duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

July 30, 2012 _____
Date

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